

REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested. Claim 25 is amended, and claims 1-25 are pending in the application.

The objection to claim 25 is noted, and claim 25 has been corrected accordingly.

Claims 1, 6-8, 12, 17-19, and 24-25 were rejected under §102(e) in view of U.S. Patent No. 6,212,535 to Weikart et al. Claims 2-5, 9-11, 13-16, and 20-23 were rejected under §103 in view of Weikart et al. and Lubeski et al. These rejections should be withdrawn for the reasons set forth below.

Each of the independent claims specify a user computer sending a voice message based on recording a voice message by an executable browser plug-in resource based on encoding parameters recognized by a voice messaging system, storing the voice message within a data file having a MIME type recognizable by the voice messaging system as a voice message, and outputting the data file for transfer to a destination voice mailbox accessible by the voice messaging system.

Hence, the user computer enables a calling party to record a message for storage in a destination voice mailbox accessible by the voice messaging system for one of the voice messaging subscribers.

Moreover, the recording of the voice message based on encoding parameters recognized by a voice messaging system, and storing the voice message within a data file having a MIME type recognizable by the voice messaging system as a voice message, enables the voice messaging system to store, retrieve, and play the voice message in the destination voice mailbox,

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enabling the voice messaging subscriber to access the stored voice message using conventional voice-based interactive voice response units.

These and other features are neither disclosed nor suggested in the applied prior art.

Weikart discloses a computer having a plug-in or java applet that can record and send a voice file to an e-mail address specified in a field 420. The voice file is sent as a MIME encoded file using SMTP protocol. The MIME encoded file is posted with the command "mailto:<recipient(s)>". (Col. 4, lines 42 to col. 5, line 7).

The recipient of the message, e.g., the user of the client 130, or any other user having a computer connected to the Internet, does not need any additional software other than a standard MIME enabled e-mail application. (Col. 5, lines 38-43).

Hence, Weikart et al. merely discloses recording a message, and sending the message to a second client computer as an e-mail message.

Weikart et al. neither discloses nor suggests the features of recording and sending the voice message for storage in a voice mailbox accessible by a voice messaging system, where the voice message is stored in a data file having a MIME type recognizable by the voice messaging system as a voice message, as claimed. In particular, Weikart et al. neither discloses nor suggests:

(1) recording the voice message based on encoding parameters recognized by a voice messaging system; rather, Weikart et al. uses a conventional soundboard 117 that uses conventional encoding techniques (e.g., 64 kbps .wav files) that are incompatible with existing voice messaging systems (see page 9, lines 21-27 of the specification);

(2) storing the voice message within a data file having a MIME type recognizable by the Amendment filed February 23, 2004
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voice messaging system as a voice message; rather, Wikart et al. uses conventional MIME encoding which typically identifies audio files as .wav files.

(3) outputting the data file for transfer to a destination voice mailbox accessible by the voice messaging system for a corresponding one of the voice messaging subscribers; rather, Wikart et al. discloses sending the e-mail message to a user of a conventional e-mail application (See, e.g., col. 1, lines 50-54; col. 5, lines 38-42).

Hence, the rejection should be withdrawn because it fails to demonstrate that Khabardar discloses each and every element of the claim. See MPEP 2131. "The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). "Anticipation cannot be predicated on teachings in the reference which are vague or based on conjecture."

Studien Gesellschaft Kohle mbH v. Dart Industries, Inc., 549 F. Supp. 716, 216 USPQ 381 (D. Del. 1982), aff'd, 726 F.2d 724, 220 USPQ 841 (Fed. Cir. 1984).

For these and other reasons, the rejection of claims 1, 6-8, 12, 17-19, and 24-25 should be withdrawn.

The rejection of claims 2-5, 9-11, 13-16, and 20-23 is respectfully traversed.

First, the Official Action fails to establish a prima facie case of obviousness because there is no evidence of why one skilled in the art would have been motivated to modify Weikart et al. to include the teachings of Lubeski et al. "Teachings of references can be combined only if there is some suggestion or incentive to do so." In re Fine, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988) (quoting ACS Hosp. Sys. v. Montefiore Hosp., 221 USPQ 929, 933 (Fed. Cir. 1984)) (emphasis in original).

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The Official Action asserts that "combining Luzeski's teaching with Weikart is also an obvious modification since both inventions discloses [sic] encoding and transferring voice over the Internet." This assertion, however, does not provide any suggestion or incentive for one skilled in the art to modify Weikart et al. in order to add the teachings of Luzeski et al. "The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." In re Fritch, 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992).

In fact, one skilled in the art would avoid adding the teachings of Luzeski et al., since Weikart et al. utilizes the Internet SMTP protocol to send the MIME encoded file. Luzeski et al., however, requires the streaming of voice and fax data from the PC to the VMM Voice/Fax store 10-9 (see, e.g., col. 12, lines 1-26).

Assuming, however, one skilled in the art would have been motivated to combine Weikart and Luzeski et al., the resulting hypothetical combination still would neither disclose nor suggest recording by an executable browser plug-in resource a voice message based on encoding parameters recognized by a voice messaging system, let alone outputting the data file to a destination voice mailbox accessible by the voice messaging system for a corresponding one of the voice messaging subscribers, as claimed.

Rather, the hypothetical combination would merely send the message output by Weikart as an e-mail message to an e-mail destination: Fig. 4G of Luzeski et al. explicitly teaches that a voice mail or e-mail message is sent to a final destination via the gateway 10-3 using either an SMTP server or X.400 server (col. 21, lines 21-42). Further, the reference to "CMC_CT_BASIC AUDIO" in the Appendix refers to a notification message having an attachment specifying a

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pointer (NAP Telephony ID) for a message stored in the VNMS object store (i.e., the voice/fax store 10-9) (col. 16, lines 35-45). Note, however, that e-mail messages are stored in the e-mail message store 10-2 and voice/fax messages are stored in a separate storage area 10-9 controlled by the Voice Mail Message Manager (VMMM) 10-8 (see, e.g., col. 12, lines 1-26, col. 18, lines 29-33). As such, all voice messages are accessed by a streaming connection (see Fig. 4D and col. 20, lines 22-46).

Further, there is no disclosure or suggestion that the reference to "CMC_CT_BASIC_AUDIO" refers to a message generated by a browser; rather, one skilled in the art would conclude that the disclosed message stored in the voice store 10-9 was stored using a conventional NAP-based voice messaging system via the PSTN (see, e.g., Fig. 5 of Luzeski et al.).

None of the references, singly or in combination, disclose or suggest recording by a browser a voice message for storage in a destination voice mailbox that is accessible by the voice messaging system as a voice message for a voice messaging subscriber. None of the references disclose or suggest any technique that would enable a MIME encoded message to be recognized by a voice messaging system as a voice message for a messaging subscriber. Rather, the hypothetical combination merely would regard the e-mail message carrying the attachment merely as an e-mail carrying an attachment, hence would store the e-mail message in the e-mail inbox of the destination, and not the destination voice mailbox, as claimed.

An evaluation of obviousness must be undertaken from the perspective of one of ordinary skill in the art addressing the same problems addressed by the applicant in arriving at the claimed invention. Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, 23 USPQ 416, 420 (Fed. Cir.

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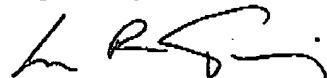
1986), cert. denied, 484 US 823 (1987). Thus, the claimed structures and methods cannot be divorced from the problems addressed by the inventor and the benefits resulting from the claimed invention. In re Newell, 13 USPQ2d 1248, 1250 (Fed. Cir. 1989). None of the references, singly or in combination, disclose or suggest the desirability of use of a browser for supplying a stored voice message to a destination voice mailbox of a voice messaging subscriber, enabling the voice messaging subscriber to access the stored voice message from the destination voice mailbox using the voice messaging system, as claimed.

For these and other reasons, the §103 rejection should be withdrawn.

In view of the above, it is believed this application is and condition for allowance, and such a Notice is respectfully solicited.

To the extent necessary, Applicant petitions for an extension of time under 37 C.F.R. 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including any missing or insufficient fees under 37 C.F.R. 1.17(a) or 1.17(e), to Deposit Account No. 50-1130, under Order No. 95-454, and please credit any excess fees to such deposit account.

Respectfully submitted,



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(February 21, 2004 = Saturday)

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